

THIRTEENTH DAY

WEDNESDAY, FEBRUARY 5, 1997

PROCEEDINGS

The Senate met at 12:00 noon pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Shapleigh.

The President announced that a quorum of the Senate was present.

The Reverend John R. Pitts, Senate Chaplain, offered the invocation as follows:

Lord, this is the day that You have made. You ask that we rejoice and delight in this day. To do so, we must know of Your desires for this State of Texas. To do so, we need Your strength to do what is right. Give us that strength. Give us a renewed sense of awareness of what is right for Texas. And then, Lord, give us the courage to do it. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator West, Senator Shapleigh was granted leave of absence for today on account of important business.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

THE STATE OF TEXAS
STATEMENT OF CANVASS FOR
THE SPECIAL ELECTION FOR STATE SENATE DISTRICT 5
HELD ON JANUARY 28, 1997

I, GEORGE W. BUSH, Governor of the State of Texas, in accordance with Section 67.013(d), Texas Election Code, HEREBY CERTIFY, the attached tabulation was prepared by the Secretary of State pursuant to Section 67.013(b).

IN TESTIMONY WHEREOF, I have hereunto affixed my signature and caused to be impressed hereon the Great Seal of the State of Texas, at Austin, on this the 31st day of January, 1997.

/s/George W. Bush
Governor of Texas

Attest:

/s/Antonio O. Garza, Jr.
Secretary of State

**IN THE NAME AND BY THE AUTHORITY OF
THE STATE OF TEXAS**

THIS IS TO CERTIFY, that at a special election held on Tuesday, January 28, A.D. 1997, Steve Ogden was duly elected State Senator, District 5.

In testimony whereof, I have hereunto signed my name and caused the Seal of State to be affixed at the City of Austin, this the 31st day of January, A.D. 1997.

/s/George W. Bush
Governor of Texas

Attest:

/s/Antonio O. Garza, Jr.
Secretary of State

CO-AUTHOR OF SENATE BILL 1

On motion of Senator Brown and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 1**.

CO-AUTHOR OF SENATE BILL 78

On motion of Senator Ellis and by unanimous consent, Senator Patterson will be shown as Co-author of **SB 78**.

CO-AUTHOR OF SENATE BILL 79

On motion of Senator Ellis and by unanimous consent, Senator Patterson will be shown as Co-author of **SB 79**.

CO-AUTHOR OF SENATE BILL 99

On motion of Senator Patterson and by unanimous consent, Senator Armbrister will be shown as Co-author of **SB 99**.

CO-AUTHORS OF SENATE BILL 328

On motion of Senator Brown and by unanimous consent, Senators Shapiro and Truan will be shown as Co-authors of **SB 328**.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time, and referred to the committees indicated:

SB 403 by Zaffirini, Moncrief

Relating to funding of the Medicaid disproportionate share program through an assessment imposed against certain hospitals and hospital districts.
To Committee on Health and Human Services.

SB 405 by Harris

Relating to exempting certain reserve peace officers from the application of the Private Investigators and Private Security Agencies Act.
To Committee on State Affairs.

SB 407 by Harris, Nelson, Galloway, Nixon, Patterson, Carona, Gallegos, Luna, Moncrief, Shapiro

Relating to minimum standards, records, suspension or revocation of a license, and administrative penalties for abortion facilities.
To Committee on Health and Human Services.

SB 408 by Harris

Relating to illegal fireworks and certain offenses relating to fireworks.
To Committee on Criminal Justice.

SB 409 by Ellis

Relating to the appointment of appellate justices and judges, to the nonpartisan election of district judges, to the retention or rejection of district and appellate judges, and to the creation of certain judicial districts.
To Committee on Jurisprudence.

SB 410 by Nelson

Relating to certain students expelled from public school or ordered to attend a juvenile justice alternative education program.
To Committee on Education.

SB 412 by Zaffirini, Moncrief, West

Relating to maximizing federal reimbursement for certain foster care program costs.
To Committee on Finance.

SB 413 by Moncrief

Relating to the administration of the Health and Human Services Commission and the administration and funding of the state Medicaid program.
To Committee on Health and Human Services.

SB 414 by Moncrief

Relating to certain advance directives for medical treatment.
To Committee on Health and Human Services.

SB 415 by Brown, Armbrister, Ellis

Relating to associate judges appointed by the district courts and county courts at law of Fort Bend County.
To Committee on Jurisprudence.

SB 416 by Harris

Relating to the private enforcement and collection of child support payments under the Child Support Collection Privatization Council.
To Committee on Jurisprudence.

SB 417 by Ellis, Harris

Relating to a report by the Texas Workforce Commission regarding implementation of the integration of certain state services regarding workforce development.

To Committee on Economic Development.

SB 418 by Ellis, Harris

Relating to certain performance measures and evaluations of workforce programs and to the administration of workforce development programs by the Texas Workforce Commission and the Council on Workforce and Economic Competitiveness.

To Committee on Economic Development.

SB 419 by Armbrister, Carona, Galloway

Relating to the determination of damages in certain civil actions.

To Committee on Economic Development.

SB 420 by Cain

Relating to the authority of certain counties to impose a county hotel occupancy tax.

To Committee on Intergovernmental Relations.

SB 421 by Cain

Relating to the assignment of certain former district judges as visiting judges.

To Committee on Jurisprudence.

SB 422 by Cain

Relating to the licensure of a hospital with multiple premises under a single license and the provision of certain services by licensed hospitals.

To Committee on Health and Human Services.

SB 423 by Whitmire

Relating to a requirement of a driving safety course for renewal of certain persons' driver's licenses.

To Committee on State Affairs.

SB 424 by Bivins, Carona

Relating to false public records; creating an offense.

To Committee on Jurisprudence.

SJR 22 by Harris

Proposing a constitutional amendment to provide for transferring the school tax freeze on the homestead of an elderly person to a new homestead in certain circumstances.

To Committee on Finance.

SJR 23 by Ellis

Proposing a constitutional amendment providing for the appointment of appellate justices and judges by the governor with retention elections on a nonpartisan ballot for those justices and judges, for the nonpartisan election and retention or rejection of district judges, for the election of certain district judges from commissioners court precincts, and for the alteration of the terms of certain judicial offices.

To Committee on Jurisprudence.

GUEST PRESENTED

The President introduced to the Senate former First Lady of Texas Rita Clements.

The Senate welcomed Mrs. Clements.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
February 5, 1997

TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE BOARD OF REGENTS OF TEXAS TECH
UNIVERSITY for terms to expire January 31, 2003:

NANCY EILEEN JONES

382 Avenida Cortez

Abilene, Texas 78602

Ms. Jones will be replacing Elizabeth Clark Ward of Houston whose term expired.

J. MICHAEL WEISS

2831 North Meadow Drive

Lubbock, Texas 79403

Mr. Weiss will be replacing Patsy Woods Martin of Austin whose term expired.

JOHN WILLOUGHBY JONES

1106 West 12th Street

Brady, Texas 76825

Mr. Jones will be replacing John C. Sims of Lubbock whose term expired.

Respectfully submitted,

/s/George W. Bush
Governor of Texas

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 48, HCR 49**

SENATE BILL 290 REREFERRED

On motion of Senator Zaffirini and by unanimous consent, **SB 290** was withdrawn from the Committee on International Relations, Trade, and Technology and was rereferred to the Committee on Health and Human Services.

CAPITOL PHYSICIAN

The President recognized Senator Zaffirini, who presented Dr. Leopoldo M. Muniz of Rio Grande City as the "Doctor for the Day."

Dr. Muniz, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was made welcome by the Senate.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, February 5, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 27, Congratulating the La Marque Cougars.

HCR 50, Recognizing February 5, 1997, as El Paso Day at the Capitol.

HCR 51, Recognizing February 5, 1997, as Pittsburg Day at the State Capitol.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

SENATE RESOLUTION 99

Senator Barrientos offered the following resolution:

SR 99, Recognizing February 5, 1997, as the day of the Great Austin Bash celebration.

(Senator Duncan in Chair)

The resolution was again read.

The resolution was previously adopted on Monday, February 3, 1997. The names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

(President in Chair)

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate Austin Mayor Bruce Todd; Donya Ginest, *Austin American-Statesman*; Michael Von Ohlen, General Manager of Capital Metro; Tom Stacy, Downtown Austin Alliance; Phillip Breland, Radisson Hotel; and Bill Aleshire, Travis County Judge.

The Senate welcomed its guests.

HOUSE CONCURRENT RESOLUTION 50

The President laid before the Senate the following resolution:

HCR 50, Recognizing February 5, 1997, as El Paso Day at the Capitol.

DUNCAN

The resolution was read.

On motion of Senator Duncan and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 218 ON SECOND READING**

Senator Ratliff moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **CSSB 218** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Shapleigh.

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended for **CSSB 218**:

CSSB 218, Relating to fees for licensure as an architect.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 218 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 218** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Shapleigh.

CSSB 218 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATOR ANNOUNCED PRESENT

Senator Shapleigh, who had previously been recorded as "Absent-excused," was announced "Present."

SENATE BILL 297 ON SECOND READING

Senator Ratliff moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **SB 297** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Shapleigh.

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended for **SB 297**:

SB 297, Relating to the technology allotment under the foundation school program.

(Senator Shapiro in Chair)

The bill was read second time and was passed to engrossment by the following vote: Yeas 26, Nays 4, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West, Zaffirini.

Nays: Barrientos, Gallegos, Shapleigh, Whitmire.

Present-not voting: Truan.

(President in Chair)

SENATE BILL 297 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 297** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West, Zaffirini.

Nays: Barrientos, Gallegos, Shapleigh, Whitmire.

Present-not voting: Truan.

SB 297 was read third time and was passed by the following vote: Yeas 26, Nays 4, Present-not voting 1. (Same as previous roll call)

GUESTS PRESENTED

Senator Luna was recognized and introduced to the Senate a group of fourth-grade students from the San Antonio Academy.

The Senate welcomed its guests.

CONGRATULATORY RESOLUTIONS

SR 116 - by Gallegos: Congratulating Ezekial "Zeke" Perez of Houston.

SR 118 - by Gallegos: Congratulating Johnnie Rountree of Galena Park.

SR 119 - by Ellis: Congratulating Richard Buckles of Houston.

SR 120 - by Ellis: Congratulating Frank Hutchinson of Houston.

SR 121 - by Ellis: Congratulating United States Army Colonel William Conrad Reitan of Houston.

SR 122 - by Ellis: Congratulating Clarence O'Neal "Brad" Bradford, Chief of Police of the Houston Police Department.

SR 123 - by Lindsay: Congratulating August-David Jamal Khalil of Houston.

SR 124 - by Lindsay: Congratulating Russell Hill of Spring.

SR 125 - by Lindsay: Congratulating Patrick Randell Norfleet of Houston.

MISCELLANEOUS RESOLUTIONS

SR 117 - by Gallegos: Recognizing the Houston Chinese New Year Festival 1997.

HCR 51 - (Ratliff): Recognizing Pittsburg Day at the State Capitol on February 5, 1997.

ADJOURNMENT

On motion of Senator Truan, the Senate at 12:57 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

February 5, 1997

JURISPRUDENCE — **SB 166, SB 243, CSSB 81**

CRIMINAL JUSTICE — **CSSB 35**

HEALTH AND HUMAN SERVICES — **SB 57, SB 58, SB 60**

